

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

WILDFIRE MODEL WFB150-Q2 OFF-  
ROAD ALL-TERRAIN VEHICLES,

Defendant.

CASE NO. C11-5913 BHS

ORDER DENYING CLAIMANT'S  
MOTION TO COMPEL AND  
GOVERNMENT'S MOTION FOR  
LEAVE TO FILE SURREPLY

This matter comes before the Court on Claimant Snyder Computer System, Inc., d/b/a Wildfire Motors' ("Wildfire") motion to compel deposition of David Alexander (Dkt. 57) and the Government's motion for leave to file surreply (Dkt. 74). The Court has considered the pleadings filed in support of and in opposition to the motions and the remainder of the file and hereby denies the motions for the reasons stated herein.

**I. PROCEDURAL HISTORY**

On November 7, 2011, the Government filed a complaint for the forfeiture of off-road vehicles and generators. Dkt. 1. The Government seized this merchandise at the Port of Tacoma in Tacoma, Washington. *Id.*

1 On January 1, 2012, Wildfire answered, demanding that its property be released.  
2 Dkt. 7.

3 On October 4, 2013, Wildfire issued a notice of deposition for Environmental  
4 Protection Agency (“EPA”) attorney advisor David Alexander. The Government  
5 objected to this deposition, and, after the parties met and conferred, Wildfire filed the  
6 instant motion. Dkt. 57. On November 4, 2013, the Government responded. Dkt. 68.  
7 On November 8, 2013, Wildfire replied. Dkt. 72.

8 On November 12, 2013, the Government filed a motion for leave to file a surreply  
9 (Dkt. 74) and a surreply (*id.*, Exh. 1). On November 13, 2013, Wildfire responded. Dkt.  
10 78. On November 15, 2013, the Government replied. Dkt. 82.

## 11 II. DISCUSSION

### 12 A. Surreply

13 The Government requests leave to file a surreply to address arguments raised for  
14 the first time in Wildfire’s reply. Dkt. 74. The Court denies the request because the  
15 motion to compel may be determined without additional briefing.

### 16 B. Deposition

17 Evidence is relevant if “it has any tendency to make a fact more or less probable  
18 than it would be without the evidence . . . .” Fed. R. Evid. 401. Parties may obtain  
19 discovery regarding any nonprivileged matter that is relevant to any party’s claim or  
20 defense . . . . Relevant information need not be admissible at the trial if the discovery  
21 appears reasonably calculated to lead to the discovery of admissible evidence.” Fed. R.  
22 Civ. P. 26 (b)(1).

1 In this case, Wildfire contends that deposing Mr. Alexander would lead to the  
2 discovery of relevant information. The Court disagrees. The relevant issue in this matter  
3 is whether the idle mixture screws are adjustable. While Mr. Alexander's reasons for  
4 allegedly pressing the investigation may be relevant in a civil damages action, they are  
5 not relevant on the issue of whether the seized property violates the applicable  
6 regulations.

### 7 **III. ORDER**

8 Therefore, it is hereby **ORDERED** that Wildfire's motion to compel (Dkt. 57) and  
9 the Government's motion for leave to file surreply (Dkt. 74) are **DENIED**.

10 Dated this 21st day of November, 2013.

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13 BENJAMIN H. SETTLE  
14 United States District Judge  
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